



NUCLEAR ENERGY INSTITUTE

Felix M. Killar, Jr.
DIRECTOR,
Material Licensee Programs
Direct Line 202.739.8126
Internet fmk@nei.org

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Mr. Patrick I. Castleman
Division of Fuel Cycle Safety and Safeguards
Office of Nuclear Material Safety and Safeguards
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

REFERENCE: Comments on the “*Work Plan for Revision of the Fuel Cycle Facility Oversight Program*” (December 15, 2000 version)

Dear Mr. Castleman:

The Nuclear Energy Institute (NEI)¹ and its fuel cycle facility licensee members have reviewed the draft Work Plan for revision of the regulatory oversight of fuel cycle facilities. As Mr. Marvin Fertel, Director, NEI Business Operations, stated in his prepared remarks to the NRC Commissioners at the December 20, 2000 briefing, industry fully supports the objectives and intents of this NRC initiative.

The draft Work Plan envisions adoption of a regulatory oversight model that is similar in structure to that now being introduced for Part 50 licensees. While this model is risk-informed and relies on objective determinations of facility safety, it requires development of Performance Indicators (PI) common to all licensees that can be measured to provide input data for objective, quantitative assessment of a licensee’s safety performance. Development of analogous PIs common to all fuel cycle facilities will, however, be extremely difficult due to the diversity of individual

¹ NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI’s members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, materials licensees, and other organizations and individuals involved in the nuclear energy industry.

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licensee operations (gaseous diffusion plants, uranium fuel fabricators, MOX fuel fabricators, UF₆ converters). To take advantage of the improvements made to the reactor oversight model while avoiding those features that are not easily adaptable, industry recommends that the existing fuel cycle licensee oversight process – the Licensee Performance Review (LPR) – be risk-informed to permit its continued use for evaluation of the safety performance of fuel cycle licensees.

NEI agrees in principle with many of the '*work items/activities*' and '*task priorities*' identified in the draft Work Plan. Many of these – such as development of core principles for a corrective action program or for the significance determination process – are independent of whether the 'reactor model' or 'risk-informed LPR model' is eventually adopted for fuel cycle licensees. However, until the Commissioners decide upon an oversight framework, NEI recommends that the identification, prioritization and scheduling of detailed work tasks in the Work Plan be deferred. We do not believe that the tasks listed in the December 15, 2000 draft Work Plan for adoption of the reactor model could reasonably be completed to permit full implementation of the revised regulatory oversight program by the anticipated October 1, 2001 date. We do believe that risk-informing of the LPR process could be undertaken within a shorter timeframe than for adoption of the 'reactor model'.

Regardless of which regulatory framework is eventually adopted, NEI recommends that the Work Plan schedule not commence until April-May 2001. Most fuel cycle licensees are fully engaged in implementation of the new Subpart H requirements of 10 CFR 70. Preparation and submission of ISA Summaries and the *ISA Approach* programs by mid-April 2001 is absorbing major licensee resources. Until the NRC issues final guidance on ISAs and ISA Summaries (February-March), the Commission decides upon an appropriate regulatory oversight program (February), and licensees complete their regulatory submissions (April), industry will not be able to devote the substantial resources required to work with the NRC on revising the oversight program. Furthermore, we believe that the new Part 70 revisions should be implemented before the inspection and enforcement components of the oversight process are revised. We, therefore, recommend that further initiatives on the regulatory oversight revision initiative be deferred until at least the April-May 2001 timeframe. We do look forward to discussing this proposed schedule change and the draft Work Plan at the meeting that you have scheduled for the first week of February 2001.

We do have several brief comments on individual work tasks outlined in the draft Work Plan:

- **Tasks 3 & 4 ('Communications Plan')**: the NRC has designed a very comprehensive and thorough Communications Plan to disseminate the features of the revised regulatory oversight plan. While we strongly concur with the NRC's efforts to engage the public and to keep them informed of licensee and Commission activities, we believe the anticipated level of public interest in the proposed regulatory oversight program revisions has been significantly overestimated. We question whether such a detailed and costly program is warranted. Finalization of the Communications Plan should be relegated to a lower priority task and deferred until the NRC has finalized most substantive tasks in the Work Plan. Additionally, during the December 20th Commission briefing there was extensive discussion on communication of the revised oversight program to potentially affected and interested stakeholders. NEI recommends that finalization of the Communications Plan be deferred until guidance from the Commission is received. (Further comments on the Communications Plan are being sent to you under separate cover.)
- **Task 7 ('Oversight Program Framework')**: this task has not been completed as is incorrectly indicated on the Work Plan. It will be resolved upon issuance of the Commission SRM (early February?) and should retain its high priority. Following Task 7, the Work Plan with tasks, priorities and schedules (currently listed as Task 2) should be undertaken.
- **Tasks 8, 9 & 10 ('Cornerstones of Safety')**: cornerstones of safety have already been defined for the LPR process (safety of operations, safeguards, radiological controls, management controls) as presented in NRC Inspection Manual Chapter 2604. These cornerstones of safety have worked well for the LPR process in the past and do not require major modification. NEI believes that the emphasis being placed on development of the 'Defense & Security Oversight Cornerstones' by the NRC may be inappropriate for all fuel cycle licensees. This issue can be discussed at the early February meeting.
- **Task 11 ('Corrective Action Plan')**: NEI and industry will take the lead in developing core principles for a corrective action program. Guidance for implementation of the Part 70 revisions (NUREG-1520) will assist in development of these principles that should be common to all licensee corrective action plans. This task should retain its 'high' priority and could be started before the final oversight framework is selected.
- **Task 12 ('Significance Determination Process')**: the significance

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determination process will incorporate the results of the facility ISA. Development of the significance determination process is contingent upon issuance of NRC guidance on ISA preparation. This task should retain its 'high' priority and could be started after issuance of the ISA guidance and before selection of the final oversight framework.

- **Task 20 (*Overall Assessment of Licensee Performance*)**: this task is also dependent on ISA guidance to be issued by the NRC and on the development of measures of licensee performance that are unique to each type of fuel cycle licensee. Development of such performance yardsticks (Tasks 22 & 23 in the draft Work Plan) may have to occur prior to this Task 20 as important input data for overall licensee assessment.

We appreciate the opportunity to comment upon the NRC's draft Work Plan for revision of the fuel cycle Regulatory Oversight Program. All fuel cycle licensees strongly support this initiative to design an oversight program that provides an objective, transparent and timely assessment of licensee safety in operations.

Sincerely,



Felix M. Killar, Jr.